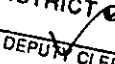


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Attorneys for Plaintiff
THE BNSF RY. CO.

FILED
MAY - 3 2006
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BNSF RAILWAY COMPANY, a
Corporation,

Plaintiff,

v.

ARCHER DANIELS MIDLAND
COMPANY; ADM MILLING
COMPANY; ADM EDIBLE BEAN
SPECIALTIES, INC.; ADM CORN
PROCESSING; and Roes 1-5, inclusive,

Defendants

CASE NO. CV 00135 AWI (DLB)

[Assigned to the Honorable Judge
Anthony W. Ishii]

**BNSF'S REQUEST FOR DISMISSAL
AND ORDER THEREON**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLAINTIFF BNSF RAILWAY COMPANY "BNSF" hereby informs the Court that BNSF and ADM have now entered into and fully executed a confidential release and settlement agreement which calls for the dismissal of this entire action with prejudice after its execution. There is no counter-claim, cross claim or third party action on file in this matter. to be dismissed. BNSF therefore hereby thanks the Court for its assistance in resolving the case and respectfully requests that this matter in its entirety be forthwith dismissed by this Court with prejudice.

1 BNSF further requests that the telephonic status conference before the Honorable
2 Magistrate Judge Dennis L. Beck currently calendared for Thursday May 4, 2006 be taken
3 off calendar.

4
5 Dated: June 13, 2005

LAW OFFICES OF
LESLIE G. MCMURRAY

6
7 /s/ Leslie G. McMurray

8 Counsel for Plaintiff
9 BNSF RAILWAY COMPANY
10
11

12
13 ~~PROPOSED~~ ORDER OF DISMISSAL
14

15 The Court having read and reviewed the Request for Dismissal filed by plaintiff,
16 The BNSF Railway Company, ("BNSF"), and good cause appearing therefore, hereby
17 dismisses the above captioned action with prejudice.

18 The telephonic status conference scheduled with the Honorable Magistrate Judge
19 Dennis L. Beck on Thursday May 4, 2006 is hereby vacated. This Order further directs
20 the clerk of this court to forward a copy of this order to the Honorable Magistrate Judge
21 Dennis L. Beck.

22 IT IS SO ORDERED.

23
24 Dated: April 28, 2006

25 By: 
Honorable Anthony W. Ishii
26
27
28

DECLARATION OF MAILING

I, Leslie G. McMurray declare:

I am, and was at the time of service hereinafter mentioned, over the age of 18 years and not a party to the within action. My business address is 12520 Magnolia Blvd., Suite 206, Valley Village, California 91607-3446, and I am employed in the County of Los Angeles, California.

On April 26, 2006, I served the document(s) described as **BNSF'S REQUEST FOR DISMISSAL AND ORDER THEREON** by placing a true copy of the document(s) for collection and deposit in the United States mail at 12520 Magnolia Blvd., Suite 206, Valley Village, California 91607, in a sealed envelope, with postage thereon fully prepaid, on the interested parties as follows:

Kurt A. Kappes, Esq.
Seyfarth, Shaw LLP
400 Capital Mall, Suite 2350
Sacramento, California 95814-4420
(916) 558-0159 [Phone]
(916) 558-4839 [Fax]

At the time of service, there was regular delivery of United States mail between the place of deposit and the place of address.

I am familiar with the practice of The Law Offices of Leslie G. McMurray for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned document(s) would have been deposited with the United States Postal Service on April 26, 2006, the same day on which it was placed with The Law Offices of Leslie G. McMurray for deposit. I declare under penalty of perjury under the laws of the State of California and of the United States that the foregoing is true and correct.

Executed on April 26, 2006, at Valley Village, California.

/s/ Leslie G. McMurray

Leslie G. McMurray